

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DAVID DWAYNE CASSADY,

Plaintiff,

v.

STEVEN D. HALL

Defendants.

CIVIL ACTION NO.

5:14-CV-25(MTT)

**DEFENDANT’S MOTION TO ALLOW EVIDENCE OF PLAINTIFF’S
SEXUAL BEHAVIOR OR PREDISPOSITION PURSUANT TO
FEDERAL RULE OF EVIDENCE 412**

COMES NOW Steven D. Hall, Defendant in the above-referenced action, and files this Motion to Allow Evidence of Plaintiff’s Sexual Behavior or Predisposition pursuant to Federal Rule of Evidence 412, respectfully showing the Court the following:

Statement of Facts

Plaintiff David Cassady is currently incarcerated for multiple counts of aggravated sodomy, kidnapping with bodily injury, false imprisonment, and impersonating a police officer. Each of these charges pertains to sexual crimes committed by the Plaintiff, and the underlying facts of those crimes should be heard by the members of jury in this case.

Memorandum of Law

Federal Rule of Evidence 412 (b) (2) allows evidence offered to prove that a victim engaged in certain sexual behavior or evidence offered to prove a victim's sexual predisposition where the probative value of the evidence substantially outweighs the danger of harm or unfair prejudice to the victim.

Defendant expects that Plaintiff David Cassady will testify that he has suffered extreme mental pain and anguish as a result of the alleged assaults at issue in this case. In order to realistically evaluate Plaintiff's mental damages as alleged, the jury should be made aware of the facts underlying those charges, as outlined in Mr. Cassady's multiple bills of indictment. Only then will the jury be able to evaluate the impact of the alleged assaults on Mr. Cassady's psyche. Damages in this case are to be decided by the enlightened conscience of an impartial jury, but the jury's conscience cannot be enlightened without that knowledge. For these reasons, the defense respectfully requests that it be given the opportunity to bring up the facts underlying Plaintiff's criminal charges.

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the foregoing pleading with the clerk of Court using the CM/ECF system, which will automatically send email notification to the following attorney of record the Defendant:

Christopher B. McDaniel
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This 15th day of March, 2016.

/Wesley E. Childs/

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